DEPARTMENT OF REAL ESTATE

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DEPARTMENT OF REAL ESTATE

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STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

To:

ACM NORTH,

MARK ANTHONY SAWYER, and
ELKE STEPHENSON

No. H-10725 SF

ORDER TO DESIST AND REFRAIN
(B&P Code Section 10086)

The Commissioner (Commissioner) of the California Department of Real Estate (Department) caused an investigation to be made of the activities of ACM NORTH (ACM), MARK ANTHONY SAWYER (Sawyer), and ELKE STEPHENSON (Stephenson). Based on the investigation, the Commissioner has determined that ACM, Sawyer, and Stephenson engaged in, are engaging in, or are attempting to engage in, acts or practices constituting violations of the California Business and Professions Code (Code) and/or Title 10, Chapter 6, California Code of Regulations (Regulations), including the business of, acting in the capacity of, and/or advertising or assuming to act as, real estate brokers in the State of California within the meaning of Section 10131(d) (performing services for borrowers in connection with loans secured by real property) of the Code. Furthermore, based on the investigation, the Commissioner hereby issues the following Findings of Fact, Conclusions of Law, and Desist and Refrain Order under the authority of Section 10086 of the Code.

Whenever acts referred to below are attributed to ACM, Sawyer, or Stephenson, those acts are alleged to have been done by Sawyer and/or Stephenson, acting by himself or herself, or by and/or through one or more agents, associates, affiliates, and/or co-conspirators, and using the names ACM North, acmnorth.com, or other names or fictitious names unknown at this time.

FINDINGS OF FACT

- 1. At no time herein mentioned have ACM, Sawyer, or Stephenson been licensed by the Department in any capacity.
- 2. During the period of time set out below, ACM, Sawyer, and/or Stephenson solicited borrowers and negotiated to do one or more of the following acts for another or others, for or in expectation of compensation: negotiate one or more loans for, or perform services for borrowers and/or lenders in connection with loans secured directly or collaterally by one or more liens on real property, in violation of Section 10130 of the Code.
- 3. On or about December 1, 2008, ACM, Sawyer, and/or Stephenson solicited Anthony and Petra Hernandez (Hernandez) to provide loan modification services to save the Hernandez' home, located at 988 McLellan Ave., San Jose, CA., from being lost in foreclosure. ACM, acting through Sawyer, Stephenson, or their associates, agents or affiliates, requested Hernandez to pay the sum of \$600.00 as an up front fee for services, specifically, modifying Hernandez mortgage loan to avoid foreclosure. Based on the representation of ACM, Sawyer, Stephenson, or their associates, affiliates or agents, Hernandez paid the amount of \$600.00 to ACM North by personal check on December 11, 2008. Contrary to their representations and promises, ACM, Sawyer and/or Stephenson failed to provide a successful and sustainable loan modification for Hernandez.

CONCLUSIONS OF LAW

5. Based on the findings of fact contained in paragraphs 1 through 3, ACM North, Sawyer and Stephenson, acting by themselves, or by and/or through one or more agents, associates, affiliates, and/or co-conspirators, and using the names ACM North, acmnorth.com,

or other names or fictitious names unknown at this time, solicited borrowers and purported to perform services for those borrowers and/or those borrowers' lenders in connection with one or more loans secured directly or collaterally by one or more liens on real property, which requires a real estate license under Section 10131(d) of the Code, during a period of time when ACM North, Sawyer and Stephenson were not licensed by the Department in any capacity.

DESIST AND REFRAIN ORDER

Based on the Findings of Fact and Conclusions of Law stated herein, you ACM NORTH, MARK ANTHONY SAWYER, and ELKE STEPHENSON, doing business under your own names, using the names ACM North, acmnorth.com, or any other names or fictitious names, ARE HEREBY ORDERED to:

- 1. Immediately desist and refrain from performing any acts within the State of California for which a real estate broker license is required. In particular, you are ordered to desist and refrain from:
- (a) soliciting borrowers and/or performing services for borrowers or lenders in connection with loans secured directly or collaterally by one or more liens on real property, and
- (b) from charging, demanding, or collecting an advance fee for any of the services you offer to others, unless and until you obtain a real estate broker license issued by the Department, and until you demonstrate and provide evidence satisfactory to the Commissioner that you are in full compliance with all of the requirements of the Code and Regulations relating to charging, collecting, and accounting for advance fees.
- 2. Immediately desist and refrain from collecting advance fees, as that term in defined in Section 10026 of the Code, in any form and particularly with respect to loan modification, loan refinance, principal reduction, foreclosure abatement or short sale services, unless and until you demonstrate and provide evidence satisfactory to the Commissioner that you have:
- (a) an advance fee agreement which has been submitted to the Department and which is in compliance with Sections 2970 and 2972 of the Regulations;

1 placed all previously collected advance fees into a trust account for that (b) 2 purpose and are in compliance with Section 10146 of the Code; and 3 provided an accounting to trust fund owner-beneficiaries pursuant to (c) 4 Section 2972 of the Regulations. DATED: 5 JEFF DAVI 6 Real Estate Commissioner 7 8 9 10 Chief Deputy Commissioner 11 **Notice:** Business and Professions Code Section 10139 provides that "Any person acting as a real estate broker or real estate salesperson without a license or who advertises using words 12 indicating that he or she is a real estate broker without being so licensed shall be guilty of a public offense punishable by a fine not exceeding twenty thousand dollars (\$20,000), or by 13 imprisonment in the county jail for a term not to exceed six months, or by both fine and imprisonment; or if a corporation, be punished by a fine not exceeding sixty thousand dollars 14 (\$60,000)." 15 16 ACM North Elke Stephenson cc: 17 2051 Junction Avenue, # 230 2051 Junction Avenue, #230 San Jose, CA 95131 San Jose, CA 95131 18 19 Mark Anthony Sawyer 2051 Junction Avenue, #230 20 San Jose, CA 95131 21 22 23 24

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